

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY BARCLAY,

Plaintiff,

v.

JEFFREY BEARD, et al.,

Defendant.

No. 2:15-cv-0178 MCE CKD P

ORDER

Plaintiff, a state prisoner, is proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. The case proceeds against defendant G. Polanco and concerns an alleged use of excessive force at San Quentin State Prison in 2013. (ECF No. 1.) Before the court is plaintiff's unopposed motion for a change of venue to the Northern District of California. (ECF Nos. 32 & 33.)

The federal venue statute provides that a civil action "may be brought in (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) if there is no district in which an action may otherwise be brought as provided in this action, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action." 28 U.S.C. § 1391(b).

1 In this case, while plaintiff originally named CDCR Secretary Jeffrey Beard as a
2 defendant, the sole defendant remaining in this action after screening does not reside in this
3 district. Moreover, the claim arose in Marin County, which is in the Northern District of
4 California. In the interest of justice, a federal court may transfer a complaint filed in the wrong
5 district to the correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932
6 (D.C. Cir. 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion for change of venue (ECF No. 32) is granted; and
9 2. This matter is transferred to the United States District Court for the Northern District of
10 California.

11 Dated: December 17, 2015



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

12
13
14
15
16
17
18 2 / barc0178.21
19
20
21
22
23
24
25
26
27
28